

**MINUTES  
OF THE REGULAR MEETING OF THE  
EDINA CITY COUNCIL  
HELD AT CITY HALL  
APRIL 21, 1997 - 7:00 P.M.**

**ROLLCALL** Answering rollcall were Members Faust, Hovland, Kelly, Maetzold and Mayor Smith.

**CONSENT AGENDA ITEMS APPROVED** Motion made by Member Kelly and seconded by Member Maetzold to approve the Consent Agenda items as presented with the exception of Agenda Item V.E. Rehabilitation of Water Treatment Plant #2.

Rollcall:

Ayes: Faust, Hovland, Kelly, Maetzold, Smith

Motion carried.

**RESOLUTION OF APPRECIATION PRESENTED TO ST. ALBAN'S EPISCOPAL CHURCH IN RECOGNITION OF THEIR 40<sup>TH</sup> ANNIVERSARY** Mayor Smith explained that St. Alban's Episcopal Church was established in 1957 and continues to maintain a positive presence at Valley View and Gleason Road. **Mayor Smith made a motion approving a resolution of appreciation for St. Alban's Episcopal Church on their 40<sup>th</sup> anniversary.** Member Faust seconded the motion.

Rollcall:

Ayes: Faust, Hovland, Kelly, Maetzold, Smith

Resolution adopted.

**1997 GIRLS ALPINE SKI TEAM CHAMPIONS COMMENDED** Mayor Smith commended the 1997 Edina Girls Alpine Ski Team who won the Classic Lake Conference, Section 6AA Champions and State Championship. Resolutions of commendation were presented to each team member as ambassadors of the City of Edina representing the highest standards of athletic proficiency and good sportsmanship. **Member Maetzold made a motion adopting the resolution commending the 1997 Girls Alpine Ski Team Champions on their Classic Lake Conference, Section 6AA Championship and State Championship.** Member Hovland seconded the motion.

Rollcall:

Ayes: Faust, Hovland, Kelly, Maetzold, Smith

Resolution adopted.

**1997 STATE INDIVIDUAL ALPINE SKI CHAMPION COMMENDED** Mayor Smith commended Julie Ramsland of the Edina High School 1997 Girls Alpine Ski Team as Individual Alpine Champion of the Section 6AA and the State of Minnesota. **Member Maetzold made a motion adopting the resolution commending Julie Ramsland as the 1997 Individual Alpine Champion of Section 6AA and State Alpine Champion.** Member Faust seconded the motion.

Rollcall

Ayes: Faust, Hovland, Kelly, Maetzold, Smith

Resolution adopted.

**ARBOR DAY PROCLAIMED** Mayor Smith reminded Council that in Nebraska in 1872, the Board of Agriculture set aside a special day to plant trees. Edina has, in the past ten years been recognized as a Tree City USA by the National Arbor Day Foundation and desires to continue the planting of trees for its future. **Member Hovland made a motion proclaiming April 25, 1997, as Arbor Day in the City of Edina.** Member Faust seconded the motion.

Ayes: Faust, Hovland, Kelly, Maetzold, Smith

Motion carried.

**\*MINUTES OF THE REGULAR MEETING OF APRIL 7, 1997, AND BOARD OF REVIEW OF APRIL 14, 1997, APPROVED** Motion made by Member Kelly and seconded by Member

## Minutes/Edina City Council/April 21, 1997

**Maetzold approving the Minutes of the Regular Meeting of April 7, 1997, and the Board of Review Meeting of April 14, 1997.**

Motion carried on rollcall vote - five ayes.

### **LIBERTY PROPERTY TRUST DEVELOPER'S AGREEMENT AND CONSIDERATION OF CURB CUT DELAYED UNTIL APRIL 25, 1997 SPECIAL CITY COUNCIL MEETING DIVERSIFIED PHARMACEUTICAL SYSTEMS (DPS) FACILITY (W. 78<sup>TH</sup> STREET) JOINT POWER AGREEMENT WITH BLOOMINGTON APPROVED**

Assistant Manager Hughes reviewed the terms of the proposed Liberty Property Trust Developer's Agreement with the City of Edina:

1. Liberty will pay a minimum of \$261,000 and no more than \$281,000 for road improvements,
2. Liberty will provide a two year bond for their landscaping plan,
3. Access to the parking ramp from ceremonial drive has been moved south and will serve ingress only,
4. Ceremonial drive will not be used by construction traffic,
5. Possible future office buildings in northwest portion of the site:
  - a) Edina shall review site plan, landscaping plan and exterior plan,
  - b) Building shall be limited to a height of 27 feet,
  - c) Building shall be limited to a total "gross floor area" of 48,000 square feet,
  - d) Occupancy shall be limited to DPS or affiliate, and
  - e) Liberty agrees not to subdivide the property.

Assistant Manager Hughes also reviewed the draft Joint Powers Agreement with the City of Bloomington:

1. Edina will reconstruct W. 78<sup>th</sup> Street from the railroad to Cecilia Circle including W. 78<sup>th</sup> Street/Cahill Road signals,
2. Edina and Bloomington, with the cooperation of Hennepin County will improve the intersection of East Bush Lake Road and W. 78<sup>th</sup> Street,
3. Edina and Bloomington will cooperatively reconstruct W. 78<sup>th</sup> Street from Cecilia Circle to west of Gleason Road including signalization of W. 78<sup>th</sup> Street and Cecilia Road,
4. Bloomington will improve the intersection of West Bush Lake Road and W. 78<sup>th</sup> Street in conjunction with Edina's construction the "Braemar" frontage road,
5. Agreement details how the signal at Gleason and W. 78<sup>th</sup> Street may be installed with cost participation,
6. A two year bond will be provided by Liberty to Bloomington for landscape guarantee,
7. Bloomington will review land use policies and sanitary sewer capacity needs as part of their Comprehensive Plan preparation, and
8. Bloomington and Edina will process a Municipal Board action regarding the change of ownership of W. 78<sup>th</sup> Street west of the west lot line of Braemar Business Center.

The Council discussed issues and concerns relating to the proposed Development Agreement with Liberty Property Trust, the proposed Joint Powers Agreement with the City of Bloomington and the potential second building on the DPS site on West 78<sup>th</sup> Street including:

1. Potential second phase building constructed on the DPS site,
  - a) Review process level of authority,
  - b) Concern that second building be setback as far as possible from W. 78<sup>th</sup> Street,
  - c) Potential envelope for second building,
  - d) Loss of surface parking,
  - e) Potential for additional levels on parking structure,
2. Type of security given to Edina for Liberty's financial commitment,
3. Viability of adding language in the Deed Restriction of the Developer's Agreement limiting the curb cut permit to one building and the ability to revoke the curb cut in the future,
4. Request to install the underground portions of future signal at W. 78<sup>th</sup> St. and Lochmere Terrace,
5. Proposed method of handling construction traffic to minimize impact on residential neighbors,
6. Need for a clearer definition of "ceremonial drive" and its proposed use,

7. Strengthening proposed signage of ceremonial driveway and parking structure directing traffic toward Cecilia Circle,
8. Proposed signage prohibiting trucks from using the ceremonial drive,
9. Potential cost of signaling Gleason Road and W. 78<sup>th</sup> Street if warrants are not met and possible allocation of those costs;
10. Need to research the future of Delaney Boulevard and involve the residents in the process, and
11. Garnering assurances from Liberty relative to additions to the parking structure.

Staff responded to Council concern and questions as follows

1. Review of any future building would afford the opportunity to review architectural design and landscaping, but not whether the building should be built or its potential size,
2. Financial commitment offered by Liberty for the street improvement would be an irrevocable Letter of Credit,
3. Edina will be named a co-obligee on the Landscaping Bond with the City of Bloomington for two full growing seasons. Claims under this bond would be processed by the City of Bloomington and procedures for handling said claims noted in the Joint Powers Agreement.
4. Edina has the ability to impose conditions on construction traffic control.
5. Future revocation of the W. 78<sup>th</sup> Street curb cut would need a basis in West 78<sup>th</sup> Street traffic safety issues,
6. DPS building and site design direct large truck traffic to use Cecilia Circle not the ceremonial drive,
7. Signal at Gleason & W. 78<sup>th</sup> Street cost estimated at \$125,000, of which \$10,000 will be covered when roadway improvements are constructed. May use MSA funds if warrants are met, Bloomington may be requested to contribute to cost.

John Gattuso, Senior Vice President with Liberty Property Trust informed Council he agreed with prohibiting truck traffic from using the ceremonial drive. He added Liberty intends to put signs directing trucks to use Cecilia Circle and they would be willing to strengthen the language on the signs. Mr. Gattuso stated Liberty would work with the City of Edina to develop an architectural approach to any additional building on the site that addresses the noted concerns. Liberty would agree to allow the Edina City Council to review any future building on the site as if the property were located within Edina. He also agreed that all parking for any future second building would be limited to the "Northwest expansion area" of the site.

Consensus of the Council was that the Liberty Property Trust Developers Agreement needs further revisions and review. Direction was given to Attorney Gilligan to redraft the agreement including the provisions discussed by Council and agreed to by Mr. Gattuso. The final draft will be reviewed and acted upon by the Council at a special meeting at 8:00 a.m., Friday, April 25, 1997.

**Member Kelly made a motion setting Friday, April 25, 1997 at 8:00 a.m. as a special meeting to consider the final draft of the Developers Agreement with Liberty Property Trust.** Member Hovland seconded the motion.

Rollcall:

Ayes: Faust, Hovland, Kelly, Maetzold, Smith

Motion carried.

**Motion by Kelly, approving the Joint Powers Agreement between the City of Edina and the City of Bloomington contingent upon the City entering into a Development Agreement with Liberty Property Trust.** Member Hovland seconded the motion.

Rollcall:

Ayes: Faust, Hovland, Kelly, Maetzold, Smith

Motion carried.

**Member Kelly introduced the following resolution and moved its approval contingent upon the City entering into a Development Agreement with Liberty Property Trust:**

**RESOLUTION REGARDING SPEED STUDY  
WEST 78<sup>TH</sup> STREET - FROM EAST BUSH LAKE ROAD  
TO TWO HUNDRED FEET WEST OF GLEASON ROAD**

**WHEREAS, West 78<sup>th</sup> Street between East Bush Lake Road and two hundred feet west of Gleason Road is a busy thoroughfare; and**

**WHEREAS, a significant number of accidents have occurred along this stretch of roadway; and**

**WHEREAS, the roadway geometrics tend to be curvilinear and have grades resulting in excessive speeds of motorists.**

**NOW, THEREFORE, BE IT RESOLVED that the Edina City Council requests that the Minnesota Department of Transportation undertake a speed study to determine if a lower speed limit can be established on said route.** Member Hovland seconded the motion.

Rollcall:

Ayes: Faust, Hovland, Kelly, Maetzold, Smith

Resolution adopted

**Member Kelly introduced the following resolution and moved its approval contingent upon the City entering into a Development Agreement with Liberty Property Trust:**

**RESOLUTION REQUESTING MN/DOT  
RECONSTRUCT EAST BUSH LAKE  
ROAD BRIDGE OVER INTERSTATE 494**

**WHEREAS, the Edina City Council commissioned a traffic study from the SRF Consulting Group, Inc. to review existing traffic conditions along the West 78<sup>th</sup> Street Corridor and to develop recommendation for roadway and traffic control improvements to the existing conditions; and**

**WHEREAS, said study identified a need for improvements to the East Bush Lake Road Bridge over Interstate 494.**

**NOW, THEREFORE BE IT RESOLVED that the Edina City Council hereby requests the Minnesota Department of Transportation place the highest priority available on the bridge widening of East Bush Lake Road over Interstate 494.**

**BE IT FURTHER RESOLVED that the Edina City Council hereby requests the Minnesota Department of Transportation complete the reconstruction of the East Bush Lake Road Bridge over Interstate 494 to coincide with the addition of a third lane to Interstate 494 or sooner.** Member Hovland seconded the motion.

Rollcall:

Ayes: Faust, Hovland, Kelly, Maetzold, Smith

Resolution carried.

**Member Kelly made a motion directing City staff to complete the following:**

- 1. Develop a feasibility report for the next portion of construction on West 78<sup>th</sup> Street from Cecilia Circle to a point west of Gleason Road.**
- 2. Negotiate right-of-way to construct the "Braemar" frontage road during the sale of land at the northeast corner of the 169/494 interchange.**
- 3. Develop the appropriate information for Municipal Board action changing the City's boundary west of the West 78<sup>th</sup> Street/West Bush Lake Road interchange so the north frontage of 1-494 can be turned over to Edina and subsequently placed on the state-aid system.**
- 4. Continue speed enforcement actions on West 78<sup>th</sup> Street and formulate a proposal for purchase of a "speed trailer" for Council consideration.**
- 5. Continue neighborhood traffic analysis north of West 78<sup>th</sup> Street to establish before DPS and after DPS data base.**
- 6. Review the school bus safety options with the Lochmere Terrace and Glasgow Drive residents prior to any construction of the West 78<sup>th</sup> Street right-of-way.**

7. Evaluate the Gleason Road/West 78<sup>th</sup> Street signal warrants using projected DPS traffic being added to the system. If the projected DPS traffic potentially justifies a traffic signal, then complete signal justification report for MnDOT review.
8. Work with Kraus-Anderson (DPS contractor) to minimize construction traffic impact on Edina neighbors and roadways.

Member Hovland seconded the motion.

Rollcall:

Ayes: Faust, Hovland, Kelly, Maetzold, Smith

Motion carried.

**\*FINAL DEVELOPMENT PLAN FOR EDINA PROPERTIES (3917-3929 WEST 50<sup>TH</sup> STREET) CONTINUED TO MAY 5, 1997** Motion made by Member Kelly and seconded by Member Maetzold to continue the final development plan for Edina Properties, 3917-3929 West 50<sup>th</sup> Street to May 5, 1997.

Motion carried on rollcall vote - five ayes.

**APPROVED FINAL REZONING R-1 SINGLE DWELLING UNIT DISTRICT TO PRD-1, PLANNED RESIDENCE DISTRICT AND FINAL PLAT APPROVED OLDE VERNON (SOUTH OF VERNON AVENUE AND EAST OF OLINGER ROAD) - PHILIP STEPHEN COMPANY** Affidavits of Notice were presented, approved and ordered placed on file.

Presentation by Planner

Planner Larsen stated the City Council granted Preliminary Rezoning for a 26 unit townhouse development on this property October 7, 1996. The developer revised the plan and January 21, 1997, presented Council the revision depicting 26 detached units, whereas, the preliminary plan had illustrated all two unit buildings. The development plan continues the townhouse concept with individual ownership of house pads and common ownership of all other areas including the private road.

Planner Larsen noted the proposed Final Plans conform to all requirements of the Zoning and Subdivision Ordinances. The proposed landscaping plan exceeds ordinance requirements in both the size and amount of plantings. He pointed out the developer, in response to Council concern added on-street guest parking for 18 vehicles.

Planner Larsen reported the Planning Commission recommends Final Rezoning and Final Plat approval subject to:

1. Developers Agreement with security,
2. Landscaping Bond, and
3. Acceptance as Subdivision Dedication of a Conservation Restriction over all land within one hundred (100) feet of Hawkes Lake and over all land north and east of the lake.

Council briefly discussed various aspects of the proposed development including: the limited architectural styles, on street parking limited to the south side of the street and the final disposition of the property on the northwest portion of the site.

Phil Dommer, representing the developer briefly reviewed the architectural styles and exterior finishing materials proposed for the development. He explained the developer's hope that by limiting the designs and exterior finishes a harmonious feeling can be achieved throughout the development. Mr. Dommer agreed to place "No Parking" signs on the north side of the private street.

**Member Kelly moved approval of First Reading and waiver of Second Reading of Ordinance No. 850 A-9 approving the rezoning of the property known as Olde Vernon:**

**ORDINANCE NO. 850-A9**

**AN ORDINANCE AMENDING THE ZONING ORDINANCE (NO. 850)**

**BY REZONING PROPERTY TO PLANNED RESIDENTIAL DISTRICT 1 (PRD-1)  
FROM SINGLE DWELLING DISTRICT (R-1)**

**THE CITY COUNCIL OF THE CITY OF EDINA, MINNESOTA, ORDAINS:**

**Section 1. Subsection 850.06 of Section 850 of the Edina City Code is amended by adding the following thereto:**

**“The extent of the Planned Residential District (PRD-1) is enlarged by the addition of the following property:**

**That part of the Southeast Quarter of the Northwest Quarter, Section 32, Township 117, Range, 21, Hennepin County, Minnesota, described as follows: Beginning at a point on the northerly line of EDINA HIGHLANDS LAKESIDE ADDITION distant 406.15 feet East along said northerly line from the west line of said Southeast Quarter of the Northwest Quarter, said northerly line is marked by Judicial Landmarks set pursuant to Torrens Case No. 14146; thence North, parallel with the west line of said Southeast Quarter of the Northwest Quarter, 107.25 feet; thence West, parallel with said northerly line, 406.15 feet to said West line; thence North along said West Line 144.86 feet, more or less to the center line of County Road No. 158; thence northeasterly along said center line to the East line of said Southeast Quarter of the Northwest Quarter; thence South along said East line to the most northerly corner of EDINA HIGHLANDS LAKESIDE ADDITION; thence southwesterly and westerly along the northerly line of said addition, which line was determined in Torrens Case No. 14146, to the point of beginning.**

**The extent of the Single Dwelling District (R-1) is reduced by removing the property described above from the R-1 District.”**

**Section 2. This ordinance shall be in full force and effect upon its passage and publication.** Motion seconded by Member Hovland

Rollcall:

Ayes: Faust, Hovland, Kelly, Maetzold, Smith

Ordinance adopted.

**Member Kelly introduced the following resolution and moved its adoption with the three conditions as recommended by the Planning Commission:**

**RESOLUTION APPROVING FINAL PLAT  
FOR THE OLDE VERNON ADDITION**

**BE IT RESOLVED** by the City Council of the City of Edina, Minnesota, that that certain plat entitled, “OLDE VERNON, platted by the Philip Stephen Companies, a Minnesota corporation and presented at the regular meeting of the City Council on April 21, 1997, be and is hereby granted final plat approval. Member Hovland seconded the motion.

Rollcall:

Ayes: Faust, Hovland, Kelly, Maetzold, Smith

Resolution adopted.

**AMENDED FINAL REZONING APPROVED - PRD-3, PLANNED RESIDENCE DISTRICT TO PRD-4 PLANNED RESIDENCE DISTRICT (5120 AND 5124 FRANCE AVENUE) - HANS KUHLMAN** Affidavits of Notice were presented, approved and ordered placed on file.

Presentation by Planner

Planner Larsen noted the City Council approved Final Rezoning plans for this property for a seven unit condominium, December 16, 1996. The approved plan illustrated four units on the first floor and three units on the second floor. The developer has returned asking for approval of a revised plan increasing the number of units to eight. The eighth unit is achieved by redesigning the second

floor to four units. The building exterior and site plan would not change. Parking for the additional unit is provided in the underground garage.

Planner Larsen stated the Planning Commission had recommended approval of the Revised Final Plan without changing the Zoning designation. Planner Larsen explained staff has learned a Zoning designation change is necessary because in the City Attorney's opinion a variance for density cannot be granted. Under the PRD-3 zoning 29,200 square feet are required to support an eight unit development and the subject site contains 27,646 square feet. However, the site meets the required area for PRD-4 of 17,200 square feet.

Hans Kuhlman, 5104 Halifax Avenue South, developer presented graphics depicting the modified plan for eight units.

Council Discussion/Action

Council briefly discussed the proposed plan as modified and presented, questioning the potential impact on future redevelopment requests.

**Member Maetzold moved approval of First Reading of Ordinance No. 850 A-10 and waiver of Second Reading approving the rezoning of the property at 5120 and 5124 France Avenue:**

**ORDINANCE NO. 850-A10**

**AN ORDINANCE AMENDING THE ZONING ORDINANCE (NO. 850)  
BY REZONING PROPERTY TO PLANNED RESIDENTIAL DISTRICT 4(PRD-4)  
FROM PLANNED RESIDENTIAL DISTRICT 3(PRD-3)**

**THE CITY COUNCIL OF THE CITY OF EDINA, MINNESOTA, ORDAINS:**

**Section 1. Subsection 850.06 of Section 850 of the Edina City Code is amended by adding the following thereto:**

**"The extent of the Planned Residential District (PRD-4) is enlarged by the addition of the following property:**

**5120 and 5124 France Avenue South**

**The extent of the Planned Residential District (PRD-3) is reduced by removing the property described above from the Planned Residential District PRD-3."**

**Section 2. This ordinance shall be in full force and effect upon its passage and publication. Motion seconded by Member Hovland**

Rollcall:

Ayes: Faust, Hovland, Kelly, Maetzold, Smith

Ordinance adopted.

**\*FIRST READING FOR ORDINANCE NO. 1997-5 AN ORDINANCE AMENDING SECTION 815, ANTENNAS AND TOWERS TO MAY 5, 1997** Motion of Member Kelly and seconded by Member Maetzold to continue first reading of Ordinance No. 1997-5, An Ordinance Amending Section 815, Antennas and Towers to May 5, 1997.

Motion carried on rollcall vote - five ayes.

**\*BID AWARDED FOR PARK BRIDGES AND APPROACHES #96-5PK** Motion made by Member Kelly and seconded by Member Maetzold for award of bid for park bridges and approaches #96-5PK to recommended bidder Global Specialty Contractors, Inc., for a partial total bid award at \$113,000.00.

Motion carried on rollcall vote - five ayes.

**\*BID AWARDED FOR UTILITY TRACTOR FOR THE PARK MAINTENANCE DEPARTMENT** Motion made by Member Kelly and seconded by Member Maetzold for award of bid for a utility tractor for the Park Maintenance Department to recommended low bidder, Scharber and Sons, Inc., at \$31,572.00.

Motion carried on rollcall vote - five ayes.

**\*BID AWARDED FOR MAIN POOL RENOVATION** Motion made by Member Kelly and seconded by Member Maetzold for award of bid for main pool renovation at the Edina Aquatic Center to recommended low bidder, Hagen Decorators, Inc., at \$15,385.00.

Motion carried on rollcall vote - five ayes.

**RESOLUTION ADOPTED REQUESTING A PREEMPTION WAIVER FROM THE FOOD AND DRUG ADMINISTRATION RULES** Sanitarian Velde reported the Federal Drug Administration (FDA) adopted several regulations restricting access to tobacco products nationwide. Within these regulations is a restriction of vending machine use for selling tobacco products. FDA regulations permit vending machines in areas that otherwise prohibit persons 18 years and younger from entering. Edina City Ordinance No. 1324 prohibits selling tobacco products from vending machines entirely. FDA regulations include language preempting local ordinances more restrictive than federal regulations. This preemption voids local regulation of tobacco vending machine sales.

The FDA indicated they did not intend to preempt local ordinances, therefore, they will look favorably upon any requests for a waiver from preemption of specific ordinances which are more restrictive than federal regulations.

The Community Health Services Advisory Committee unanimously approved a waiver request at their April 10, 1997 meeting. Sanitarian Velde noted a formal application would be submitted along with other communities faced with the same preemption via the League of Minnesota Cities.

**Member Maetzold introduced the following resolution and moved its adoption:**

**RESOLUTION OF  
REQUEST FOR WAIVER FROM FOOD AND DRUG  
ADMINISTRATION PREEMPTION**

**WHEREAS, The City of Edina, a municipal corporation in the State of Minnesota has been regulating youth access to tobacco products by developing and implementing various local ordinances to control tobacco products; and**

**WHEREAS, the City of Edina adopted an ordinance in 1990 prohibiting the sale of tobacco products from vending machines under any condition; and**

**WHEREAS, the City of Edina believes this restriction on access to tobacco products is more restrictive than Food and Drug Administration regulations regarding tobacco; and**

**WHEREAS, the Food and Drug Administration regulations, as adopted on August 28, 1996, preempt local ordinances which may be more restrictive than the Federal regulations regarding tobacco;**

**NOW THEREFORE BE IT RESOLVED that the City Manager be authorized to submit a request for a waiver from the preemption of the City of Edina Code Section 1325 by the Food And Drug Administration regulations, thereby allowing the prohibition on the use of vending machines for dispensing tobacco products in Edina, Minnesota. Member Faust seconded the motion.**

Rollcall:

Ayes: Faust, Hovland, Kelly, Maetzold, Smith

Resolution adopted.

**\*HEARING DATE OF MAY 5, 1997, SET FOR ORDINANCE NO. 1997-4, AN ORDINANCE AMENDING SECTION 1325 OF THE CITY CODE TO PROHIBIT CERTAIN DISPLAYS AND SALES OF TOBACCO PRODUCTS** Motion made by Member Kelly and seconded by Member Maetzold setting the hearing date of May 5, 1997, for Ordinance No. 1997-4, an Ordinance Amending Section 1325 of the City Code to Prohibit Certain Displays and Sales of Tobacco Products.

Motion carried on rollcall vote - five ayes.



**APPOINTMENTS MADE TO RECYCLING AND SOLID WASTE COMMISSION** Mayor Smith recommended Judith Smith be appointed to fill an unexpired term to February 1, 1998, on the Recycling and Solid Waste Commission. In addition, a letter of resignation was recently received from Thomas Carrico, also of the Recycling Commission. Mayor Smith recommended appointment of Patricia Tucker to fill the unexpired term of Mr. Carrico to February 1, 1998.

Member Maetzold was absent from the Council Chambers during the vote for Recycling Commission appointments.

**Member Hovland made a motion appointing Judith Smith and Patricia Tucker to the Recycling and Solid Waste Commission to fill unexpired terms to February 1, 1998.** Member Faust seconded the motion.

Ayes: Faust, Hovland, Kelly, Smith  
Motion carried.

**ART CENTER EXPANSION PROPOSAL PRESENTED; APPROVED** James VanValkenburg, Chair of the Art Center Board, explained the Council had approved construction of a Media Lab within the Art Center in 1995. The second floor of the Art Center was remodeled and equipment purchased from the Southdale Library media center when it closed. The media lab equipment was purchased for \$8,000 but valued \$50,000. Since the media lab began at the Art Center, it has been profitable and appears the lab use would increase with more space and equipment.

Below are the estimated cost of the addition:

• Donation from private source	\$ 75,000
• Referendum dollars (for furnace)	\$ 25,000
• Developer's Fund	<u>\$150,000</u>

<b>TOTAL PROJECT COST</b>	<b>\$250,000</b>
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The \$250,000 total project cost includes the media center, restroom, storage, classroom and a modernized kitchen.

Following a brief Council discussion, **Member Hovland made a motion approving the Edina Art Center building proposal as presented, authorizing an expenditure of \$150,000 from the Developer's Fund.** Member Maetzold seconded the motion.

Ayes: Faust, Hovland, Maetzold, Smith  
Member Kelly abstained.  
Motion carried.

**REHABILITATION OF WOODDALE WATER TREATMENT PLANT #2 UPGRADE (UTLEY PARK) APPROVED** Member Faust said she asked removal of the rehabilitation of the water treatment plant #2 from the consent agenda to inquire about the location of plant #2. Engineer Hoffman explained the Wooddale Water Treatment Plant #2 is the brick building located at Utley Park.

**Member Faust made a motion approving the rehabilitation upgrade of Wooddale Water Treatment Plant #2 located at Utley Park.** Member Hovland seconded the motion.

Ayes: Faust, Hovland, Kelly, Maetzold, Smith  
Motion carried.

**RESIDENT REQUEST FOR FLOOD REDUCTION FUNDS FOR 5805 CONCORD AVENUE APPROVED** Engineer Hoffman explained that in 1989 the City of Edina established a stormwater utility. In 1993, Council expanded the program to provide a flood reduction program for individual properties. Participants in the program need to enact covenant holding the City harmless from future claims and elements of the program.

Engineer Hoffman noted receipt of a request for participation in the program from the homeowner at 5805 Concord. The property's history indicates a flooding at least four times since the mid-1960's. The homeowner wishes to add window-well protection to an elevation of one foot higher than the predicted 100 year event. Staff and Barr Engineering have reviewed the request.

Engineer Hoffman recommended approval of a grant at \$2,570.00 subject to the homeowner executing the hold harmless covenant.

**Member Hovland made a motion authorizing fund expenditure to the homeowner at 5805 Concord Avenue and the contractor for the flood reduction program subject to execution by the homeowner of a hold harmless covenant.** Member Faust seconded the motion.

Ayes: Faust, Hovland, Kelly, Maetzold, Smith

Motion carried.

**\*RESOLUTION APPROVING NO PARKING RESOLUTIONS FOR MILL AND OVERLAY IMPROVEMENTS A-181 AND A-182** Member Kelly introduced the following resolutions seconded by Member Maetzold moving their approval:

**RESOLUTION**

**RELATING TO PARKING RESTRICTIONS ON  
S.A.P. 120-136-12 FROM XERXES AVENUE TO**

**WHEREAS, the "City" has planned the improvement of MSAS 136 (West 76<sup>th</sup> Street) from Xerxes Avenue to 285 feet west.**

**WHEREAS, the "City", will be expending Municipal Street Aid Funds on the improvement of this Street, and**

**WHEREAS, this improvement does not provide adequate width for parking on both sides of the street; and approval of the proposed construction as a Municipal State Aid Street project must therefore be conditioned upon certain parking restrictions.**

**NOW, THEREFORE, IT IS THEREBY RESOLVED that, the "City" shall ban the parking of motor vehicles on both sides of MSAS 136 (West 76<sup>th</sup> Street) at all times.**

**Dated this 21<sup>st</sup> day of April, 1997.**

Motion carried on rollcall vote - five ayes.

**RESOLUTION**

**RELATED TO PARKING RESTRICTIONS ON  
S.A.P. 120-148-15 FROM VALLEY VIEW ROAD TO  
DEWEY HILL ROAD IN THE CITY OF EDINA, MINNESOTA**

**WHEREAS, the "City" has planned the improvement of MSAS 148 (Gleason Road) from Valley View Road to Dewey Hill Road.**

**WHEREAS, the "City", will be expending Municipal Street Aid funds on the improvement of this Street, and**

**WHEREAS, this improvement does not provide adequate width for parking on both sides of the street; and approval of the proposed construction as a Municipal State Aid Street project must therefore be conditioned upon certain parking restrictions.**

**NOW, THEREFORE, BE IT RESOLVED that the "City", shall ban the parking of motor vehicles on the east side of MSAS 148 (Gleason Road) at all times.**

**Dated this 21<sup>st</sup> day of April, 1997.**

Motion carried on rollcall vote - five ayes.

**RESOLUTION**

**RELATING TO PARKING RESTRICTIONS ON  
S.A.P. 120-145-19 FROM FRANCE AVENUE TO  
XERXES AVENUE IN THE CITY OF EDINA, MINNESOTA**

WHEREAS, the "City" has planned the improvement of MSAS 145-19 (West 70<sup>th</sup> Street) from France Avenue to Xerxes Avenue.

WHEREAS, the "City", will be expending Municipal Street Aid Funds on the improvement of this Street, and

WHEREAS, this improvement does not provide adequate width for parking on both sides of the street; and approval of the proposed construction as a Municipal State Aid Street project must therefore be conditioned upon certain parking restrictions.

NOW, THEREFORE, IT IS THEREBY RESOLVED:

That the "City", shall ban the parking of motor vehicles on both sides of MSAS 145-19 (West 70<sup>th</sup> Street) at all times.

Dated this 21<sup>st</sup> day of April, 1997.

Motion carried on rollcall vote - five ayes.

**RESOLUTION**

**RELATING TO PARKING RESTRICTIONS ON**

**S.A.P. 120-145-20 FROM AMUNDSON AVENUE TO**

**METRO BOULEVARD IN THE CITY OF EDINA, MINNESOTA**

WHEREAS, the "City" has planned the improvement of MSAS 145-20 (West 70<sup>th</sup> Street) from France Avenue to Xerxes Avenue.

WHEREAS, the "City", will be expending Municipal Street Aid funds on the improvement of this Street, and

WHEREAS, this improvement does not provide adequate width for parking on both sides of the street; and approval of the proposed construction as a Municipal State Aid Street project must therefore be conditions upon certain parking restrictions.

NOW, THEREFORE, IT IS THEREBY RESOLVED that the "City", shall ban the parking of motor vehicles on the south side of MSAD 145-20 (West 70<sup>th</sup> Street) at all times.

Dated this 21<sup>st</sup> day of April, 1997.

Motion carried on rollcall vote - five ayes.

**RESOLUTION**

**RELATING TO PARKING RESTRICTIONS ON**

**S.A.P. 120-156-05 FROM WEST 70<sup>TH</sup> STREET TO**

**WEST 78<sup>TH</sup> STREET IN THE CITY OF EDINA, MINNESOTA**

WHEREAS, the "City" has planned the improvement of MSAS 156 (Cahill Road) from West 70<sup>th</sup> Street to West 78<sup>th</sup> Street.

WHEREAS, the "City", will be expending Municipal Street Aid Funds on the improvement of this Street, and

WHEREAS, this improvement does not provide adequate width for parking on both sides of the street; and approval of the proposed construction as a Municipal State Aid Street project must therefore be conditioned upon certain parking restrictions.

NOW, THEREFORE, IT IS THEREBY RESOLVED that the "City" shall ban the parking of motor vehicles on the east side of MSAS 156 (Cahill Road) at all times.

Dated this 21<sup>st</sup> day of April, 1997.

Motion carried on rollcall vote - five ayes.

**\*RESOLUTION AUTHORIZING A COOPERATIVE CONSTRUCTION AGREEMENT WITH MNDOT TO REVISE EXISTING TRAFFIC SIGNALS AT WEST 70<sup>TH</sup> STREET AND T.H. 100 AND ALL EMERGENCY VEHICLE PRE-EMPTION TO THE SIGNALS** Member Kelly introduced the following resolution, seconded by Member Maetzold:

**RESOLUTION**

BE IT RESOLVED that the City of Edina, enter into an agreement with the State of Minnesota, Department of Transportation for the following purposes, to wit:

To revise the existing traffic control signals with street lights, emergency vehicle preemption, interconnect and signing; and provide maintenance and electrical

energy for the existing highway lighting system on Trunk Highway No. 100 East and West Ramps at West 70<sup>th</sup> Street in accordance with the terms and conditions set forth and contained in Agreement No. 75958, a copy of which was before the Council.

**BE IT FURTHER RESOLVED** that the proper City officers be and hereby are authorized to execute such agreement, and thereby assume for and on behalf of the City all of the contractual obligations contained therein.

Motion carried on rollcall vote - five ayes.

**RESIDENT EXPRESSED CONCERN WITH DEER** Dr. George Lund, 6409 Indian Hills Road, expressed concern with property damage and vegetation destruction from deer in his yard. He questioned why the City controls dogs, but not deer.

Assistant Manager Hughes explained the 1993 Deer Control Plan and reported statistics regarding aerial surveys and subsequent harvestings reducing the herd to the desired limit of 40-50. He said the total obliteration of deer would be impossible if surrounding cities didn't follow the same plan as Edina. He noted controlling deer habitat via feeding stations and fencing within the confines of Edina would be extremely difficult remembering safety is the City's first concern.

No further action was required.

**GROUP HOME AT 49<sup>TH</sup> STREET DISCUSSED** Mayor Smith informed the Council, Turning Point, a local operator of group homes, proposes to purchase and operate a group home facility for girls ages 11-17 from the Hennepin County Correction System. Mayor Smith reminded the Council of the previous appearance of the neighbors from West 49<sup>th</sup> Street in June, 1996, relating to the previous operator, Stonebridge, owned by James Just, of Minnetrista, MN. At that meeting, the neighbors related a history of the group home they live near, fears for their physical well being, and daily mental anguish.

**Resident Comments**

Residents, Richard Cochrane, 3922 West 49<sup>th</sup> Street; David Stein, 3938 West 49<sup>th</sup> Street; Laura Dean, 3625 West 65<sup>th</sup> Street; Gail Dean, 3925 West 49<sup>th</sup> Street; Michie Castellano, 4854 France Avenue South; and Kathleen Godfrey, 3930 West 49½ Street; commented: their neighborhood tolerated the previous group home for ten years and they do not want another home; could another location in Edina be located; would Turning Point be tax exempt; what obligation does the City have to provide the home with services; the neighborhood feels like they have been made victims by Hennepin County, the State and City of Edina; residents of the group home are also victims; shouldn't the number of police and fire calls be reason enough to conduct an investigation or routinely inspect the premises; could a court injunction be ordered to stop the use of the home for a group home again; knifing occurred in resident's yard; is the Edina School Board aware they will have correction institutional students in their schools; and there is big business in warehousing kids in group homes.

**Council Comments**

Mayor Smith noted no application process is required in the City of Edina, therefore the City has no authority to have automatic inspections. He called the home, in its present state, an abomination. He inquired whether the licensor bears inspection responsibility.

Member Kelly commented no one should have to live through what this neighborhood has and wondered what could legally can be done.

Member Maetzold said Council needs to focus on things the City can accomplish such as beefing up routine inspections and additional law enforcement controls.

Member Faust indicated the home is in terrible condition and inquired whether it could be rat infested.

Member Hovland said the State realizes no City wants a group home in their town and that's why they are mandated, however, they should be registered and made to be in compliance or the State should be brought to task. He believes neighborhood property values should not be diminished because of the group home.

Staff Response

Building Coordinator Wasmund informed Council Turning Point has recently requested inspections by the Building Department, Health Department, and Fire Marshal.

Sanitarian Velde said following an inspection of the property, the owner could be given an order to comply.

Following a brief Council discussion, Mayor Smith directed staff to, 1) draft a letter to the State of Minnesota for his signature challenging the registration process for group homes, 2) Invite Turning Point to attend the May 5, 1997, Council meeting to present their proposal and 3) following inspections by the Health Department, Building Department and Fire Marshal a written report of conditions should be made available to the Council.

No further action was taken.

**APPOINTMENT MADE TO FILL RESIGNATION ON COMMUNITY EDUCATION SERVICES**

**BOARD** Member Maetzold indicated he was unable to serve as the Council appointee on the Community Education Services Board for the remainder of his term. Member Kelly volunteered to fill the unexpired term to June 30, 1997.

**CLAIMS PAID** Member Kelly made a motion to approve payment of the following claims as shown in detail on the check Register dated April 16, 1997, and consisting of 29 pages: General Fund \$156,715.90; C.D.B.G. \$1,000.00; Communications \$28,871.77; Working Capital \$13,020.51; Art Center \$8,144.64; \$313.59; Golf Course Fund \$118,757.97; Ice Arena Fund \$6,605.99; Gun Range Fund \$1,423.61; Edinborough/Centennial Lakes \$21,631.59; Utility Fund \$67,980.29; Storm Sewer Utility Fund \$1,696.45; Recycling Program \$42,082.89; Liquor Dispensary Fund \$195,163.11; Construction Fund \$1,877.50; Park Bond Fund \$158,059.00; IMP Bond Redemption #2 \$1,200.00; TOTAL \$824,544.81; and for confirmation of the following claims as shown in detail on the Check Register dated April 8, 1997, and consisting of 2 pages : General Fund \$136,764.89; Edinborough/Centennial Lakes \$452.75; Utility Fund \$8,526.38; Liquor Dispensary Fund \$61,694.14; I-494 commission \$5,598.46; TOTAL \$213,036.62. Member Faust seconded the motion.

Rollcall:

Ayes: Faust, Hovland, Kelly, Maetzold, Smith

Motion carried.

There being no further business on the Council Agenda, Mayor Smith declared the meeting adjourned at 11:33 P.M.

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City Clerk